

EXHIBIT 1

INTRODUCTION

Respondent Phillip Cox (“Cox”) was elected to the Tulare County Board of Supervisors on November 2, 2004, having previously served as a Visalia City Councilmember. Respondent Ralph Anderson (“Anderson”) was the designated treasurer of Respondent Cox’s controlled committee, “Committee to Elect Phil Cox” (the “Committee”). Respondent Committee received and spent \$59,426.83 in contributions in connection with Respondent Cox’s campaign for his Board of Supervisors seat.

This case was referred to the Enforcement Division of the Fair Political Practices Commission (“FPPC”) by the Tulare County Registrar of Voters. Respondents have violated the Political Reform Act (the “Act”)¹ by failing to timely file a semi-annual campaign statement and a pre-election campaign statement.

For the purposes of this stipulation, Respondents’ violations of the Act are more specifically stated as follows:

COUNT 1: On August 2, 2004, Respondents Phillip Cox, Committee to Elect Phil Cox, and Ralph Anderson failed to timely file a semi-annual campaign statement for the reporting period February 15, 2004 through June 30, 2004, in violation of Government Code Section 84200, subdivision (a).

COUNT 2: On October 5, 2004, Respondents Phillip Cox, Committee to Elect Phil Cox, and Ralph Anderson failed to timely file a pre-election campaign statement for the reporting period July 1, 2004 through September 30, 2004, in violation of Government Code Sections 84200.5, subdivision (b) and 84200.7, subdivision (b).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that contributions and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Duty to File Semi-Annual Campaign Statements

Section 84200, subdivision (a) requires all recipient committees to file semi-annual campaign statements (Form 460) each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.² All filing obligations continue until the recipient committee is terminated by filing a statement of termination (Form 410) with the Secretary of State and a copy with the local filing officer receiving the committee's original campaign statements. (Section 84214; Regulation 18404.)

Duty to File Pre-Election Campaign Statements

During any even-numbered year, candidates for county office (and their controlled committees) who are being voted upon on the first Tuesday after the first Monday in June or November are required to file a pre-election campaign statement (Form 460) as specified in Section 84200.7. (Section 84200.5, subd. (b).)

Section 84200.7, subdivision (b) provides for the filing of two pre-election campaign statements covering two reporting periods prior to elections held in November of an even-numbered year. The reporting period for the first pre-election campaign statement ends September 30. This first pre-election campaign statement must be filed no later than October 5. (Section 84200.7, subd. (b)(1).) The reporting period for the second pre-election campaign statement runs from October 1 through 17 days before the election. This second pre-election campaign statement must be filed no later than 12 days before the election. (Section 84200.7, subd. (b)(2).)

Treasurer Liability

Under Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the reporting of all funds received and spent. A committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee under Sections 83116.5 and 91006.

² Under Regulation 18116, whenever the Act requires that a statement or report (other than late contribution reports required by Section 84203, late independent expenditure reports required by Section 84204, or notice by the contributor of a late in-kind contribution required by Section 84203.3) be filed prior to or not later than a specified date or during or within a specified period, and the deadline falls on a Saturday, Sunday or official state holiday, the filing deadline for such a statement or report shall be extended to the next regular business day.

SUMMARY OF THE FACTS

COUNT 1

Failure to Timely File Semi-Annual Campaign Statements

Respondent Committee's semi-annual campaign statement for the reporting period from February 15, 2004 through June 30, 2004 was due by August 2, 2004.³ Respondent Committee received contributions totaling \$9,687 and made expenditures totaling \$15,797 during this reporting period. Respondents were obligated to file a semi-annual campaign statement by August 2, 2004 disclosing this activity. Records from the Tulare County Registrar of Voters revealed that Respondents did not file this semi-annual campaign statement by the August 2, 2004 due date. They filed the campaign statement 59 days late on October 1, 2004.

By failing to file the semi-annual campaign statement for the reporting period from February 15, 2004 through June 30, 2004 by the August 2, 2004 due date, Respondents violated Section 84200, subdivision (a).

COUNT 2

Failure to Timely File Pre-Election Campaign Statements

Respondent Cox was a candidate for the November 2, 2004 general election. Therefore, Respondents were required to timely file a pre-election campaign statement for each pre-election reporting period preceding that election under Section 84200.5.

The first pre-election reporting period preceding the November 2, 2004 general election was from July 1, 2004 through September 30, 2004. Respondent Committee received contributions totaling \$8,699 and made expenditures totaling \$6,804 during this reporting period. Respondents were obligated to file a pre-election campaign statement by October 5, 2004 disclosing this activity. Respondents did not file this first pre-election campaign statement by the October 5, 2004 due date. They filed the statement 16 days late on October 21, 2004.

By failing to timely file the first pre-election campaign statement for this pre-election reporting period, Respondents violated Section 84200.5, subdivision (b) and Section 84200.7, subdivision (b)(1).

CONCLUSION

This matter consists of two counts of violating the Act, which carry a maximum possible penalty of Ten Thousand Dollars (\$10,000).

³The normal due date of July 31 fell on a Saturday and was extended to August 2 under Regulation 18116.

In determining the appropriate penalty for a particular violation of the Act, the Enforcement Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers the facts and circumstances of the violation in context of the factors set forth in Regulation 18361.5, subdivision (d)(1)-(6): the seriousness of the violation; the presence or lack of intent to deceive the voting public; whether the violation was deliberate, negligent, or inadvertent; whether the Respondent demonstrated good faith in consulting with Commission staff; whether there was a pattern of violations; and whether the Respondent, upon learning of the violation, voluntarily filed appropriate amendments to provide full disclosure.

The seriousness of the violation. Respondents failed to timely file two campaign statements due before the November 2, 2004 general election. The late semi-annual and pre-election campaign statements were ultimately filed 32 days (semi-annual) and 12 days (pre-election) before the general election. The public harm inherent in these violations is that the public is deprived of important information such as the sources and amounts of contributions to a campaign and the amounts expended by the campaign. Regarding Count 1, the typical stipulated administrative penalty for failing to timely file a semi-annual campaign statement due prior to an election has been in the middle of the penalty range. Regarding Count 2, the typical stipulated administrative penalty for failing to timely file a pre-election campaign statement has been in the mid-to-high end of the penalty range.

The presence or lack of intent to deceive the voting public. Although Respondents chose not to timely file the required campaign statements, the Enforcement Division's investigation found no evidence that Respondents had any intent to deceive the voting public.

Whether the violation was deliberate, negligent, or inadvertent. The evidence indicates that Respondents deliberately disregarded their campaign statement filing obligations. Respondent Cox had previously served as a Visalia City Councilmember. Tulare County Registrar of Voters sent three notifications to Respondent Cox regarding his obligation to file a semi-annual campaign statement. One notification was sent before and two notifications were sent after the due date. One notification was sent twice. The Enforcement Division of the FPPC also left a message for Respondent Cox regarding his failure to file a semi-annual campaign statement, which was ultimately filed weeks later.

Whether the Respondent demonstrated good faith in consulting with Commission staff. The Enforcement Division's investigation found no evidence that Respondents consulted with Commission staff before or after the violations.

Whether there was a pattern of violations. The Enforcement Division has not previously brought any enforcement actions against Respondents. After failing to timely file two consecutive campaign statements, as described in this Exhibit, Respondents timely filed their second pre-election campaign statement prior to the general election.

Whether the Respondent, upon learning of a violation, voluntarily filed appropriate amendments to provide full disclosure. Amendments would not have provided for fuller disclosure in this case.

Regarding Count 1, the facts and circumstances relevant to the factors discussed above justify an administrative penalty toward the higher end of the typical penalty range. Thus, an administrative penalty is justified in the amount of \$3,000 for Count 1.

Regarding Count 2, the facts and circumstances relevant to the factors discussed above justify an administrative penalty toward the lower end of the typical penalty range. Thus, an administrative penalty is justified in the amount of \$3,000 for Count 2.

In sum, the facts of this case justify imposition of the agreed upon penalty of Six Thousand Dollars (\$6,000).

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